

Minutes of the Antrim Board of Adjustment November 1, 1988

Present: Everett Chamberlain; Howard Humphrey, Sr.; Joseph Timko; Tom Curran; Patricia Hammond-Grant; Mary Allen, Chairman; and David Penny, who did not sit as he lives on Gregg Lake Road.

The Chairman opened the meeting at 7:30 P.M. The first business of the evening was a Public Hearing on Case #125.

Case #125, a request by William W. MacCulloch for a Variance on Article VII, Section B of the Zoning Ordinance. The Applicant proposes to have a commercial woodworking shop and to sell hardwood lumber from property located on Gregg Lake Road in the Rural Zone. The Clerk read the Application. It was published in the Messenger-Outlook and notices sent to abutters, all receipts returned and no correspondence. The Chairman outlined the procedure for conducting the hearing and the procedure for appeal. She also read the Article to be addressed and also Article XVI, B, 3, dealing with the granting of Variances. It was noted that the building in question was built with a Special Exception.

William MacCulloch presented his case. He addressed the five criteria for granting a Variance. 1. He stated the building had been considerably improved since he had purchased it, therefore he felt there was no diminution of surrounding property. He pointed out that property owned by him has historically been improved. 2. The business he proposes will make wood available that is not available elsewhere, there will be no pressure on the school system and would employ unskilled labor. 50% of the business will be mail order. Mr. MacCulloch's opinion is that it would be in the public interest to grant this Variance. 3. Building built under a Special Exception for a woodworking shop and it is not suitable for housing. Mr. MacCulloch claimed that the cost of the building is a hardship. 4. Mr. MacCulloch's opinion was that substantial justice would be done if he could put the building to the use for which it was built. 5. MacCulloch pointed out that there was a blacksmith in the area. Nothing will be stored outside, there would be no tractor-trailers and he would comply with any conditions put on by the Board, therefore he feels that the spirit and intent of the Ordinance has been met. The Board asked about the number of employees he planned to hire. MacCulloch said that in the beginning there would only be himself and possibly one other as the business progresses he said that there would be no more than six employees. Shipping will be by UPS and delivery to his location will be by pickup truck or a truck the size of the Antrim Lumber delivery truck (small). The hours will be from 8 A.M. until 5 P.M. Monday through Saturday. There will be small machinery, skill saw; eventually a rip saw, planner, jointer, and table saw. This all depends on the growth of the business. He does not anticipate using any large machinery. There will be no large or custom millwork. There is a septic system but the bathroom is not tied in. The septic system is large enough for a three bedroom home. Board Member Timko affirmed that the raw lumber would be shipped UPS after being cut to suitable length. Any custom made furniture would be by order only. Mary Allen asked about traffic, the answer only 3-4 at a time average 6-8 pick ups a day. Traffic would be only cars and other personal transportation. The Chairman asked for comments in favor of the proposal. None. David Penny asked about the percentage of time to be

devoted to wood vs furniture. MacCulloch replied that in the beginning it would be 100 % wood which would be put back into the business for the custom furniture. These percentages will change as the business grows. There will be a showroom to display the exotic woods, a room with finished lumber to demonstrate what he is selling. There will be no showroom for the furniture this will be made on order only. Sue Craig asked how he proposed to show his furniture. MacCulloch said that this is done by photographs. David Penny commented that while this is not the same as the Artek proposal the property was built for a home based business and has had no commercial use for seven years he is concerned with the commercial business and the precedent it would create. Penny feels that it does not meet the five criteria for granting a Variance. MacCulloch rebutted this statement by saying that the Special Exception was granted in October of 1974 and that the building was built as a commercial building. He feels that the use could not be enlarged if the Board put contingencies on the Variance. Sue Craig asked about chemicals. The answer was no, the furniture would be unfinished and the wood planned. David Penny asked about the subdivision that separated the victorian house from the building. This was done as a result of Case #9 December 30, 1975. There was further discussion of the legal condition of the property. MacCulloch asked the Board to view the property before making their decision. David Penny reiterated that the use had been abandoned in 1982. MacCulloch feels that the building is not suitable for housing and that the use planned is the only one possible. He pointed out that there was not enough land to use it as a duplex. Sue Craig asked the Board, that if a Variance were granted, to use the condition "No Chemicals to be Used". The public Hearing ended and the Board adjourned at 8:35 P.M.

The Board reopened the meeting to deliberate on Case #122, a request by Sandra Grant to place a mobile home on her lot on Pleasant Street. The Board adjourned to meet with Attorney Phil Runyon for legal advice.

The Chairman reopened the Hearing to receive testimony from Madeleine Henley about the status of the septic system as there was a question raised by Brian Hennessey. The system has not been approved for operation and the contractor had been informed that some work has to be done before it could be approved. Brian Hennessey handed the Chairman, Mary Allen, a letter signed by a number of people opposed to the proposed changes unless the property is cleaned up. Sue Craig asked about the possibility of more than one unregistered vehicle on a piece of property. The Chair informed her that the mobile home is the only question before the Board. The Board adjourned to discuss case #122 and #125 with their attorney.

The Chairman reopened the meeting and addressed Case #125. The Chairman, Mary Allen announced that due to some confusion about which Ordinance the Board was working under Counsel has suggested that the Board refrain from deliberating on this case until Counsel has given his opinion.

Case #122, Deliberations. The Board will be Howard Humphrey, Sr.; Thomas Curran; ~~Joseph Tinkox~~ David Penny; Mary Allen, Chairman; and Patricia Hammond Grant, Clerk. The Board addressed the five criteria.
1. Diminution of value-Hammond-Grant felt that it would improve the situation. David Penny, no diminution but cited the reasons for allowing mobile homes only in parks or designated subdivisions. Howard Humphrey, Sr.

no diminution. Tomas Curran, no. Mary Allen, safer housing,
2. Benefit to public interest. Tom Curran and Howard Humphrey agreed that it would benefit the public interest. David Penny agreed but questioned if the precedent would be in the public interest. Mary Allen also questioned the precedent while agreeing that it would benefit the public interest. Patricia Hammond-Grant agreed.
3. Hardship Mary Allen read the zoning handbook and the Board agreed that there was no hardship in the land. David Penny stated that personal hardships cannot be considered. Howard Humphrey stated that the land is not different but the picture is different. Mary Allen stated that it is a non-conforming use not normally allowed on a single lot. Thomas Curran passed. Patricia Hammond-Grant no hardship in the land. Thomas Curran stated that it was confusing to him that there is nothing in the law to allow for personal hardship and there is no hardship in the land.
4. Substantial justice. The Chairman read the handbook. Tom Curran, by granting the variance no injustice would be done to the general public. Mary Allen was not clear. David Penny agreed no injustice to the general public. Howard Humphrey thought that it would be an injustice if not granted. Patricia Hammond-Grant agreed.
5. Spirit and Intent of the Ordinance. David Penny was of the opinion that the intent of the ordinance was to keep mobile homes off of individual lots and to allow them only in mobile home parks and subdivisions. The rest of the Board agreed that it is contrary to the spirit and intent of the ordinance and that the Board cannot change the Ordinance. This one criteria was the clearest. The Chair asked for a motion. Thomas Curran moved to deny the application for a Variance to Article XIII, D, 1. The Board finds that the land in question does not have any unique characteristics to qualify for hardship. The placement of a mobile home on a single lot outside of a manufactured housing subdivision or manufactured home park is contrary to the spirit and intent of the Ordinance. Second Patricia Hammond-Grant. Vote; Howard Humphrey, Sr., no; Thomas Curran, yes; David Penny, yes; Patricia Hammond-Grant, yes; Mary Allen, yes. Motion carried. Chairman, Mary Allen commented that this was a tough case and a tough decision. The Board's view was narrow and this was not a snap decision. The Chair outlined the procedure for appeal.

Meeting adjourned at 11:00P.M.

Respectfully submitted,

Barbara Elia
Antrim Board of Adjustment